

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	Group Art Unit: 1773
)	
Timothy M. Shively <i>et al.</i>)	Examiner: Kevin R. Kruer
)	
Serial No.: 10/729,587)	Attorney Docket No.: P477
)	
Filed: December 6, 2003)	Confirmation No.: 1576

Title: FIRE RETARDANT SHADES

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RENEWED PETITION UNDER 37 C.F.R. 1.137(b)

This is a Renewed Petition under 37 C.F.R. 1.137(b) in response to the Decision on Petition mailed March 16, 2011, and a request for reconsideration of the Petition to Revive an Unintentionally Abandoned Application and Notice of Appeal that were filed on October 14, 2010. Applicants respectfully submit that as stated in the Decision on Petition no further petition fee is due, however, if any fees are deemed to be due, the Commissioner is authorized to charge any fees required to enter the Renewed Petition to our Deposit Account No. **50-0293**.

A Petition to Revive an Unintentionally Abandoned Application and Notice of Appeal were filed on October 14, 2010 by facsimile. Copies of the Petition and Notice of Appeal are attached as Exhibit A. A grantable petition requires:

- 1) the petition fee;
- 2) a reply;
- 3) a terminal disclaimer (if applicable); and
- 4) a statement that the entire delay was unintentional.

The first item, the petition fee and the fee for the Notice of Appeal were paid by credit card using Credit Card Payment Form PTO-2058, which was also submitted by facsimile (copy attached as Exhibit B with the credit card number redacted). The reply (item 2), in this case a Notice of Appeal, was filed along with the Petition. Since this application was filed after June 8, 1995, no terminal disclaimer (item 3) is required. Finally, the statement that the entire delay was unintentional (item 4) was properly included in the Petition.

The Decision on Petition states that the merits of the petition were not considered since the required fee was not paid, and the petition was dismissed. Applicants respectfully submit that the required Petition fee (\$1620), as well as the Notice of Appeal fee (\$540), were paid on the same date that the Petition and Notice of Appeal were filed (October 14, 2010). Applicants are resubmitting a copy of the Credit Card Payment Form PTO-2058 via facsimile, and this Renewed Petition and request for reconsideration is being filed electronically. Applicants respectfully request that the Senior Petitions Attorney reconsider the Petition and that a decision on the merits be made since the proper fees were paid (as shown by the attached Appendix B) and a copy is being resubmitted concurrently.

Conclusion

Appellants respectfully submit that all of the requirements for filing a Petition to Revive an Unintentionally Abandoned Application have been met, as discussed above. Applicants therefore respectfully request that the Senior Petitions Attorney reconsider the previously submitted Petition and Notice of Appeal.

If there are any questions, the Senior Petitions Attorney is requested to telephone Applicants' representative at 413-730-2091.

Respectfully submitted,

Solutia Inc.

Dated: April 11, 2011

/Michelle Bugbee/
Michelle Bugbee
Registration No. 42,370
Attorney for Appellants

Customer Number: 93041

Solutia Inc.

Attn: IP Dept.

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APPENDIX A

OCT 14 2010

Document Description: Petition for Review by the Office of Petitions

PTO/SB/84 (07-09)

Approved for use through 07/31/2012. OMB 0851-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**Docket Number (Optional)
P-477First named inventor: Timothy M. ShivelyApplication No.: 10/729587Art Unit: 1773Filed: December 6, 2003Examiner: Kevin R. KruerTitle: Fire Retardant ShadesAttention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300NOTE: If information or assistance is needed in completing this form, please contact Petitions
Information at (571) 272-3282.The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the
United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set
for reply in the office notice or action plus any extensions of time actually obtained.**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed
before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional

1. Petition Fee

- ☐ Small entity-fee \$ _____ (37 CFR 1.17(m)). Application claims small entity status. See 37 CFR 1.27.
- ☒ Other than small entity-fee \$ 1620.00 (37 CFR 1.17(m))

2. Reply and/or fee

- A. The reply and/or fee to the above-noted Office action in
the form of Notice of Appeal (Identify type of reply):

- ☐ has been filed previously on _____
- ☒ is enclosed herewith.

- B. The issue fee and publication fee (if applicable) of \$ _____

- ☐ has been paid previously on _____
- ☐ is enclosed herewith.

(Page 1 of 2)

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PTO/SB/64 (07-09)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Paul E. Milliken
Signature
Paul E. Milliken
Type or Printed name
9061 Wall Street, NW
Address
Massillon, OH 44648-1676
Address

10-14-2010
Date
22403
Registration Number, If applicable
330-830-1555
Telephone Number

- Enclosures: ☒ Fee Payment
- ☒ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unintentional delay
- ☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

- ☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.
- ☒ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

10-14-2010
Date

Paul E. Milliken
Signature

Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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PTO/SB/31 (07-09)

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NOTICE OF APPEAL FROM THE EXAMINER TO THE BOARD OF PATENT APPEALS AND INTERFERENCES		Docket Number (Optional) P-477	
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.6(a)] on <u>10-14-2010</u>		In re Application of Timothy M. Shively	
Signature <u>Paul E. Milliken</u>		Application Number 10/729,587	Filed December 6, 2003
Typed or printed name PAUL E. MILLIKEN		For Fire Retardant Shades	
		Art Unit 1773	Examiner Kevin R. Kruer
Applicant hereby appeals to the Board of Patent Appeals and Interferences from the last decision of the examiner.			
The fee for this Notice of Appeal is (37 CFR 41.20(b)(1))		\$ <u>540.00</u>	
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee shown above is reduced by half, and the resulting fee is:		\$ _____	
<input type="checkbox"/> A check in the amount of the fee is enclosed.			
<input type="checkbox"/> Payment by credit card. Form PTO-2038 is attached.			
<input type="checkbox"/> The Director has already been authorized to charge fees in this application to a Deposit Account.			
<input type="checkbox"/> The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. _____			
<input type="checkbox"/> A petition for an extension of time under 37 CFR 1.136(a) (PTO/SB/22) is enclosed.			
WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.			
I am the		<u>Paul E. Milliken</u> Signature	
<input type="checkbox"/> applicant/inventor.		Paul E. Milliken Typed or printed name	
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)			
<input checked="" type="checkbox"/> attorney or agent of record. <u>22403</u> Registration number		<u>330-830-1555</u> Telephone number	
<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. _____		Date _____	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.			
<input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.			

This collection of information is required by 37 CFR 41.31. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1460, Alexandria, VA 22313-1460.

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APPENDIX B

PTO-2038 (09-2006)

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Credit Card Payment Form

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Please Read Instructions before Completing this Form

Credit Card Information

Credit Card Type: ☒ Visa ☐ MasterCard ☐ American Express ☐ Discover

Credit Card Account #:

Credit Card Expiration Date:

Name as it Appears on Credit Card: PAUL E MILLIKEN

Payment Amount: \$ (US Dollars): \$2,160.00

Cardholder Signature: *P. Milliken* Date: 10/14/2010

Refund Policy: The USPTO may refund a fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee will not entitle a party to a refund of such fee. The USPTO will not refund amounts of \$25.00 or less unless a refund is specifically requested and will not notify the payor of such amounts (37 CFR 1.26). Refund of a fee paid by credit card will be issued as a credit to the credit card account to which the fee was charged.

Service Charge: There is a \$50.00 service charge for processing each payment refused (including a check returned "unpaid") or charged back by a financial institution (37 CFR 1.21 (m)).

Credit Card Billing Address

Street Address 1: 9061 WALL STREET, NW

Street Address 2:

City: MASSILLON

State/Province: OH

Zip/Postal Code: 446467-1676

Country: USA

Daytime Phone #: (330) 830-1555

Fax #: (330) 830-0266

Request and Payment Information

Description of Request and Payment Information: Please pay the fees for petition for revival and the notice of appeal for the below listed patent application.

<input checked="" type="checkbox"/> Patent Fee	<input type="checkbox"/> Patent Maintenance Fee	<input type="checkbox"/> Trademark Fee	<input type="checkbox"/> Other Fee
Application No. 10/729587	Application No.	Application No.	IDON Customer No. 301742
Patent No.	Patent No.	Registration No.	
Attorney Docket No. P-477		Identify or Describe Mark	

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